The development of guiding principles for the proper management of the dead in humanitarian emergencies and help in preventing their becoming missing persons: First Expert's Meeting

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Abstract

When large numbers of people die as a result of humanitarian emergencies their bodies and remains are often managed with little consideration for their dignity. This may impact the capacity to identify the deceased and prevent them from becoming missing persons. Many of the existing guidelines for managing the dead in emergencies, including those published by the International Police Organization, the World Health Organization and the International Committee of the Red Cross, are accomplished from a technical point of view, but offer little or no specific guidance on guaranteeing the respect of the deceased and their remains. The Missing Persons Project of the International Committee of the Red Cross and the Right to Truth, Truth(s) through Rights Project of the University of Geneva convened a meeting of experts to discuss the need for developing guidance for guaranteeing the dignified treatment of the dead in humanitarian emergencies. Participants identified the need worldwide for a set of general principles to guide practitioners and decision-makers for ensuring the respect of dead persons and human remains in [...]

Reference


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Report on the first experts’ meeting on the development of principles for the proper management of the dead in humanitarian emergencies and help prevent the missing

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at the Law Faculty, University of Geneva

Workshop organized by
the International Committee of the Red Cross (ICRC Missing Persons Project)
and the University of Geneva (Law Faculty, SNSF Right to Truth, Truth(s) through Rights Project (RTTR))

With the participation of Laboratorio di Antroplogia e Odntologia Forense - LABANOF, Medico-Legal Institute, University of Milan and the International Organization for Standardization (ISO)
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ABSTRACT:


KEY-WORDS: MISSING PERSONS, HUMANITARIAN EMERGENCIES, DIGNIFIED MANAGEMENT OF THE DEAD.
I. INTRODUCTION

At the end of 2018 the Missing Persons Project of the International Committee of the Red Cross (ICRC) and the Right to Truth, Truth(s) through Rights Project of the University of Geneva\(^1\) jointly organized an international meeting of experts to discuss the need for developing principles for the dignified management of the dead in humanitarian emergencies, including to prevent them from becoming missing persons.

The meeting, held at the Faculty of Law of the University of Geneva on 30 November and 1 December 2019, was the first of its kind and it convened researchers and practitioners from the fields of forensic science, law and social anthropology, as well as humanitarian and military experts. Participants also included representatives from the International Organization of Standardization (ISO) and of the International Police Organization (INTERPOL).

This was the first event organized by the Missing Persons Project, a four-year-long institutional initiative launched by the ICRC in 2018 to develop technical standards for practitioners and policy-makers and to empower communities of practice for preventing and resolving the issue of the missing worldwide\(^2\).

The Project had identified the mismanagement of the dead as one of the many reasons why the victims of humanitarian emergencies go missing. Existing guidelines for managing the dead, such as INTERPOL’s Guide for Disaster Victim Identification\(^3\) or the manual for first responders for the management of the dead published by the ICRC and the World Health Organization\(^4\), are accomplished from a technical point of view, but offer little or no guidance for ensuring the respectful and dignified management of the dead and their remains. After consultation on this regard with the Right to Truth, Truth(s) through Rights Project of the University of Geneva the latter offered to jointly convene a meeting of selected experts from around the world to discuss the pertinence of developing specific guidance on this matter.

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3 See: [https://www.cmu.edu/chrs/conferences/eppi/docs/Interpol%20DVIGuide.pdf](https://www.cmu.edu/chrs/conferences/eppi/docs/Interpol%20DVIGuide.pdf) (last visited 16 July 2019).

The report which follows summarizes the discussions, conclusions and recommendations from the two-day-long meeting held in Geneva.

I. CHALLENGES OF FORENSIC PRACTICE IN HUMANITARIAN EMERGENCIES FOR ENSURING THE PROPER MANAGEMENT OF THE DEAD

Participants recognized that unprofessional and undignified management of dead persons and their human remains often follows humanitarian emergencies with large numbers of fatalities and that this negatively influences their identification, including to help prevent them from becoming missing persons.

The need to address the challenges that forensic work faces in contexts of humanitarian emergencies was therefore presented as an important topic for discussion, specifically in relation to the dignified management of the dead, including to help prevent them from becoming missing persons. Two specific questions surfaced hereof. On the one hand, there is a pressing need to address whether existing guidelines and standards for forensic practice in humanitarian emergencies are sufficient in order to ensure the successful application of forensic techniques to protect the dignity of the dead. On the other, this begs the question of whether forensic practice worldwide ought to be improved through a set of universal principles, which should be indisputable and agreed upon by all parties involved.

Forensic specialists have drawn, over the years, on multiple recommendations issued by international organizations involved in the management, administration and assessment of humanitarian forensic response. These recommendations appear in documents such as the United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (1991, revised in 2016); the ICRC report The Missing and their Families (2003); the WHO/ICRC Management of Dead Bodies after Disaster: A Field Manual for First Responders (updated in 2016); the Interpol Disaster Victim Identification (DVI) Guide for experts in the field (updated in 2018); the standards created by the Organization of Scientific Area Committees for Forensic Science (OSAC), part of the National Institute of Standards and Technology of the US Department of Commerce; or the materials generated by the International Committee of Missing Persons (ICMP), Justice Rapid Response (JRR), the United Nations Office on Drugs and Crimes (UNODC) and the Disaster Mortuary Operational Response Teams (DMORT), part of the US Department of Health and Human Services. In addition to these,
there is also the specialist literature on the field of forensics published in journals such as *Forensic Science International* and the *International Review of the Red Cross*, to name a few.

A look into some of these manuals, and to forensic work as it happens in practice, shows that there is a gap in these otherwise useful recommendations with respect to specific guidance for protecting the dignity of the dead. Experts identified ongoing difficulties connected to the mobilization of first responders on the ground and the appropriate individualisation and disposal of dead bodies. Further work should include the development of specific albeit complementary guidance in humanitarian forensic action for ensuring the dignified management of the dead.

*Main Discussion Points*

Thinking about the best ways of achieving a holistic approach to forensic action which ensures the dignified management of the dead in humanitarian emergencies was identified as a priority. Diverse examples revealed how issues of coordination, management, training and the evaluation of forensic performance at national and international levels play an important part in the ineffective implementation of forensic protocols in humanitarian settings.

First, participants identified that, though a protocol is usually uniformly applied by all actors involved in a crisis scenario, principles of humanitarian response do not seem to pay enough consideration to forensic guidelines and standards. Moreover, there is a clear need to define the scale, place and characteristics of the humanitarian contexts in which forensic specialists operate. It is paramount to delineate the type of emergency that is being addressed, whether a situation of conflict and mass violence, or one of natural disaster or migration, in order to gauge the obstacles and facilities that might exist for the access to and development of forensic work. Emergency contexts requiring the dignified management of the dead, including for preventing them from becoming missing persons, are diverse – socially, culturally and politically – and as such, they demand a differential approach.

Additionally, further consideration was given to problems related to the existing forensic capacity in local settings. One of the most challenging areas continues to be the frequent absence of forensic specialists on the ground in humanitarian emergencies, due to the unavailability, for the most part, of a forensic or dead body management “cluster” in national and local emergency services. Professionals of the health “cluster” not experienced in the management of the dead, are often mobilized instead, while forensic expertise remains mostly absent from national emergency plans. Shortage of forensic specialists can occur due to the lack
of sufficient capacity, including specialized training and necessary resources observed in some national medico-legal and police institutions. Moreover, in some humanitarian contexts, there might be an aversion to address the needs of the dead – in order to first care for the living –, given the time constraints and the challenges that large-scale humanitarian emergencies present. This negatively impacts the dignified management of the dead and contributes to them becoming missing persons.

In relation to the evaluation of forensic performance connected to the treatment of the dead across contexts, practitioners commented on the limited scope of the assessments usually carried out to measure, in particular, the proper and dignified management of the dead in large-scale humanitarian emergencies. Such assessments, if and when carried out, are usually only based on the quantitative evaluation of forensic performance in connection to the number of bodies recovered and identified through DNA or other forensic analysis, and the time deployed to do so, often ignoring whether their dignity and that of their families and communities was respected and protected. This narrow approach has hindered other forms of qualitative evaluation, which can provide insights into often-overlooked areas that also pose challenges for experts – such as the communication established between forensic practitioners and families, or the interface between forensic labour and context-specific cultural and religious factors (see section III).

A former diagnosis of the standards and guidelines on the management of the dead that already exist should assess the issue of “dignity” or how the dead are treated in practice. Despite counting with different manuals, the frequent mismanagement of dead bodies, especially with regards to the disposal of unidentified corpses, remains high in large scale humanitarian emergencies. Participants agreed that in many cases practitioners objectify dead bodies on the field, forgetting the fact that they once were a living person. In addition to this, recommendations often take the position of the professionals carrying out the work, focusing more on processes and technical aspects than on the respect that the dead deserves. There is a need to shift the focus from the operator to the dead and to emphasize the individuality of the dead person. Some experts suggest the need to reflect further on the concept of dignity, bearing in mind that attempting a definition of the term can lead to controversies about its shifting social, cultural and legal meanings from one context to the next (see sections II and III).

With a view to bridge the chasm between different domains of forensic action regarding the dignified management of the dead, participants agreed that forensic work ought to be set up multi-laterally with, among others, governments and international humanitarian agencies, with
the purpose to enable an all-encompassing approach to the proper management of the dead in large-scale humanitarian emergencies. Moreover, some experts advised that the creation of a set of general principles might avoid the difficult task of devising detailed standards tailored to specific situations. General principles may include common points to all humanitarian emergency contexts and be later adapted to specific national and cultural frameworks. Nevertheless, more efforts ought to be directed at making political institutions, media outlets and international organizations aware of the value of these guidelines in order to ensure the dignified treatment of the dead.

II. LEGAL AND ETHICAL FRAMEWORKS FOR THE TREATMENT OF THE DEAD AND THE PREVENTION OF THE MISSING

Identifying the specific international and national legal frameworks applicable to the dignified management of the dead and the prevention of the missing in large-scale humanitarian emergencies was highlighted as a crucial aspect to ensure the appropriate development and implementation of forensic work in these situations. From this perspective, five different categories of norms were selected for discussion.

1. International Humanitarian Law (IHL), which includes the Four Geneva Conventions (1949) and three Additional Protocols (1977/2005). These are binding over States having ratified them and apply only in contexts of armed conflict. Moreover, 6 out of 161 Rules of Customary International Humanitarian Law (Rules 112-117) address legal questions related to the dead and missing (i.e. the obligation to account for the dead and missing; the search for, collection and respectful treatment of the dead; and the dignified disposal and return of human remains and personal effects to families). The Geneva Conventions and Additional Protocol I foresee three main institutional frameworks to reinforce these principles. According to these, belligerent parties must (1) set up an official Grave Registration Service at the beginning of hostilities to mark and maintain the graves; (2) establish national bureaux to centralize and transmit information, and initiate inquiries; and (3) create a Central Tracing Agency to prevent the missing. Additional Protocol I also protects the right of families to know the whereabouts of their missing relatives.

2. International Human Rights Law (IHRL), which applies in all contexts of humanitarian emergency - especially when IHL does not apply. IHRL guarantees, among other rights, the right to life, the protection of human dignity and the prohibition of torture, the right to
private and family life, the right to an effective remedy, the right to an effective investigation and the right to truth.

3. International Criminal Law (ICL) is relevant in particular scenarios where serious violations of rules related to the dignified handling of the dead amount to an international crime, notably a war crime (see art. 8 (2)(b)(xxi) of the Rome Statute of the International Criminal Court, and the Elements of Crime, which specify that this provision is applicable to acts committed against dead persons).

4. International Disaster Response Law, such as the 2011 Sphere project, is a type of soft law, which has a much broader scope than IHL and can be applied in situations of natural disasters.

5. Domestic laws, which provide for the national implementation of international standards and international norms (IHL, IHRL, ICL). They also contemplate a great variety of domestic tools (e.g. criminal, civil, administrative, medical, bioethical law) reflecting national idiosyncrasies.

One of the most important concerns in relation to the above-mentioned legal sources is the fact that not all of these have the same content, nature and binding force. This has generated multiple and diverse legal provisions and texts, which has led to the fragmentation and lack of harmonization between legal tools. Whereas this can be considered an advantage in relation to a need for legal pluralism, it creates a chaotic or sometimes conflictual legal configuration, filled with gaps – notably, in relation to the treatment of the dead and missing – and fraught with problems of interpretation and implementation.

Moreover, provisions relating to the respectful handling of the dead and the prevention of the missing represent a very small number in the ocean of IHL, IHRL, ICL norms. In addition to this, most existing norms on this subject are imprecise and unclear. IHRL norms, for instance, remain poor in relation to the protection of the dead, as the dead body’s legal status continues to be uncertain in the corpus of national and international laws. Defining the dead body as an object or a person – legal subject benefitting from rights and obligations – has profound consequences for the possibility of regulating, or not, the manner in which human remains should be treated. It can also shape broader definitions of dignity – bearing in mind that distinctions made about the dead as an object or a person are deeply entrenched in specific socio-cultural understandings. All in all, conflicts between norms but also between the rights of the living and the (potential) rights of the dead demand a critical examination of existing
legal instruments, their content and implementation in order to ensure the respectful handling of the dead.

Main Discussion Points

Experts shared the view that international law does not necessarily cover all and every situation on the ground in relation to the proper management of the dead in humanitarian emergencies. In fact, the law is often behind reality. Nevertheless, gaps in the current legal framework were perceived as a potential strength in order to address specific issues through other creative, non-legal, means.

Discussions focused on the possibility of developing a general set of principles relating to the treatment of the dead in humanitarian emergencies. On the one hand, trying to find the lowest common denominator between all the parties involved in negotiating potential guidelines could risk creating an instrument that is meaningless to guide humanitarian forensic action. On the other, the quest for universality might undermine the need for social, cultural and religious sensitivity and respect for diverse mortuary practices – especially when the communities concerned are not adequately represented in the negotiations (see section III). These issues could be mitigated by establishing general norms that leave stakeholders some margin to decide how to best implement them depending on their social, cultural and heritage needs.

Participants debated whether principles should take as their focus or point of departure the “dead” or the “missing”. Referring to the “missing” in line with the use of the term by the ICRC’s Missing Persons Project could help settle this point. Nevertheless, this solution would not remove the need for a distinction between death and the absence that results from enforced disappearance or a person going missing – either dead or alive. Taking the broader concept of “the missing” – which is not legally defined in international law – as a point of departure would also require previous reflection on the understanding of this concept. Some experts argued that while the organisation’s mandate is formally limited to armed conflicts, the notion of “missing persons” in the proposed principles ought to be expanded to other situations of mass violence, disaster and migration. Existing definitions of the missing by the ICRC have aimed to be open and inclusive enough in order to provide a definition that encompasses persons “whose whereabouts are unknown to his or her relatives and/or who, on the basis of reliable information, has been reported missing in accordance with national legislation in connection with an international or non-international armed conflict, a situation of internal violence or
disturbances, natural catastrophes or any other situation that may require the intervention of a competent State authority” (Advisory Service on IHL of the ICRC). Others, however, argued in favour of speaking only of the “dead”. Experts warned about the importance of not blurring categories of persons protected by the existing legal framework (i.e. victims of armed conflict, the dead, the missing) by overly broadening these definitions.

Discussions also dealt with the content of the intended set of general principles. It was commonly agreed that principles should provide a definition of the process of “managing the dead”, which should be incorporated to the larger spectrum of responses to humanitarian emergency. Some specialists highlighted the need of developing guiding principles addressed to non-forensic actors – such as policy makers –, in particular, on issues that are not contemplated in existing, mostly technical texts. Some of these relate but are not limited to philosophical and ethical considerations on the legal status of the dead and their dignity. On the one hand, the fact that legal personality generally ceases with death poses questions about whether the dead has indeed “rights”, in addition to the controversies surrounding the definition of death per se. On the other, the notion of “dignity” remains an ambiguous concept and there is no consensus on its meaning in legal terms – nor is there agreement from a philosophical, ethical or anthropological perspective. Trying to suggest a definition of the term “dignity” would be thus problematic and may not assist practitioners to achieve their goal. Agreement prevailed however on referring to the term “dignity”, as used in existing international instruments for the purpose of ensuring the respectful treatment of the dead and helping prevent them from becoming missing persons.

In terms of possible pathways, group members discussed whether the proposed instrument should have binding force in order to be eventually incorporated by States as part of their domestic legislation. They also considered whether, on the contrary, they should be compiled in the form of soft law, which might only give a sense of best practices. Participants agreed that this might not be the best moment to propose new binding instruments. Thus, a series of solutions at domestic and international level were envisaged. It was discussed that, at the domestic level, further standards on technical assistance could reinforce local communities of practice. Moreover, at the international level, voluntary standards and non-binding norms could be developed in conjunction with States. These could be combined within an ecosystem of norms or a pyramid framework, through which general principles and standards could be created and implemented (see section IV). Agreement prevailed on the preference for a set of
III. IMPORTANCE OF RECOGNIZING SOCIAL, CULTURAL AND RELIGIOUS DIVERSITY

Discussions among participants to the meeting highlighted the fact that social, cultural and religious factors have a direct impact on the development and implementation of forensic work in contexts of humanitarian emergencies. All cultural systems devote major symbolic and structural efforts to handle the dead. Appropriate ways of burying, mourning, remembering and commemorating the deceased have a deep impact on individuals and their communities. In humanitarian emergencies, social, cultural and religious understandings of death intersect but can also clash with forensic knowledge and practice. Incorporating the diversity and heterogeneity of these phenomena to existing guidelines, general principles and/or standards that inform the work of forensic experts in the aftermath of extreme violence or disaster remains, however, a great challenge.

A multi-disciplinary approach to forensic action in humanitarian emergencies opens up the possibility of collaboration with other fields in the social sciences, such as social and cultural anthropology. Sociocultural anthropologists have been concerned with the cultural meanings and practices associated to the treatment and disposal of the dead since as far back as the 19th century. Recent anthropological studies concerned with the search for, recovery and identification of dead and missing persons en masse have warned about the importance of considering the relation between local ritual practices around death, aimed at securing the fate of the soul in its afterlife, and international forensic protocols. This can lead, they argue, to a better grasp of the misunderstandings that arise in the exchanges that take place between forensic experts and bereaved communities in the field.

International projects such as Below Ground: Mass Graves Exhumations and Human Rights in Historical, Transnational and Comparative Perspective hosted at the Spanish National Research Council (CSIC), examine the management or government of the dead – or necropolitics – in countries such as Spain, Argentina, Peru, Mexico, Poland or Vietnam. In these contexts, experience has revealed strong points of tension between the forensic logic of individualization and community-oriented forms of collective body disposal. Additionally, these case studies have observed that popular representations of forensic science – the so-called...
“CSI effect” – have generated distorted visions of what forensic science can achieve in complex scenarios of humanitarian emergency. This has often created false expectations and produced feelings of disappointment in surviving relatives and local populations, with misguided perceptions of the forensic method.

Social, cultural and religious considerations demand a flexible approach to the implementation of humanitarian forensic action. Protocols should aim to be sufficiently “soft” in order to accommodate context-specific differences. In this regard, rethinking current guidelines in relation to specific social, cultural and religious factors might also entail reconsidering pre-established understandings of what the “dignified” treatment and burial of the dead means across contexts. It might also involve engaging with families from the early stages of the forensic process – instead of at the end, during the disposal of the body – or contemplating other forms of identification. Participants to the meeting gave as an example the case of mass graves from the Civil War (1936-1939) and the postwar period, which have been exhumed in Spain mostly since the year 2000. Throughout the last two decades, some communities have opted to bury the dead bodies of their relatives and neighbours in a collective manner – either because they originally preferred it or because positive identification of all corpses was unlikely. Some experts have described these as emerging “communities of death”, which identify and pay tribute to their dead through forms of collective reburial and memorialization.

Sociocultural anthropologists can act as mediators between forensic practitioners and communities to facilitate the exchange between universal principles of forensic practice and local approaches to the management of the dead. They might also aid with the translation of culturally diverse customs and language associated to the recovery, burial and commemoration of the dead and missing in different crisis scenarios.

Main Discussion Points

Reflecting on social, cultural and religious factors in humanitarian emergencies implies looking at the work of forensic specialists from a different angle. Forensic science has commonly been conceived in relation to the legal and judicial purposes that it serves. Some experiences recall that social, cultural and religious aspects are often subject to the requirements of judicial investigations and thus overlooked in order to not compromise the outcome of legal processes. Indeed, as it was discussed in section II, law shapes contexts of humanitarian action. Nevertheless, according to some experts, considering forensic work in humanitarian
emergencies requires attention to the tensions that emerge between law, science and social, cultural and religious dimensions connected to the treatment of the dead.

Important problems of information transfer exist in relation to how international forensic guidelines and manuals are communicated to forensic practitioners on the ground. Specialists explain that the reoccurring mismanagement of unidentified bodies – which often experience the most uncertain and neglectful of fates – and their improper disposal demonstrate the lack of a unified approach to this issue. Prioritizing the identification of some corpses over others, a common practice in some contexts, can be remedied through a better understanding of the power imbalances generated by class, ethnicity or ideological distinctions in the management of the dead in different contexts. Additionally, experts also observed that the dignified and equitable care for all dead is also hampered by the limitations in capacity and resources faced by many local forensic systems and the work of their staff, as mentioned in section I.

Furthermore, forensic guidelines or principles for dealing with the dead in humanitarian emergencies ought to recognize that there are local strategies for managing and caring for the dead too, which can complement the practice of international and local forensic specialists. Serious consideration and respect of cultural and religious rituals around death may aid to solve ongoing difficulties and transcend dominant approaches to forensic action. Some participants agree that more training should be provided to forensic practitioners at all levels in order to generate an awareness of the unintended effects of forensic practices on local populations, encourage respect for site-specific customs and promote flexibility and adaptability to the local context. Experts also emphasized the importance of developing principles for the appropriate communication with bereaved families – in compliance with their “right to know” and “right to truth” –, communities and religious leaders before, during and after forensic operations and the identification process. This might involve forms of community engagement in consultation with social scientists.

The group agreed that exploring social, cultural and religious dimensions in too much depth might render arduous a general definition of what is meant by a “dignified treatment of the dead” from a general perspective. General principles should instead incorporate a broad reference to social, cultural and religious awareness. More specific guidelines could however be designed for particular contexts through multi-stakeholder processes, including participants from different outlooks and trajectories.
IV. POTENTIAL PATHWAYS FOR STANDARDIZATION: THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO)

One of the avenues available for the development of an intended set of general principles is drafting them through the International Organization for Standardization (ISO). ISO is an independent, non-governmental international organization with a membership of 164 national standards bodies. Through its members, it brings together experts to share knowledge and develop voluntary, consensus-based, market relevant International Standards that support innovation and provide solutions to global challenges. ISO has published 22656 International Standards and related documents, covering almost every industry, from technology, to food safety, to agriculture and healthcare.

There are two main approaches to develop the intended principles through ISO: the Committee (formal standards development process) and the International Workshop Agreement, which differ on the level of consensus, time to market, intended users, and normative vs informative value. Both approaches are described in ISO/IEC Directives and policies (https://www.iso.org/directives-and-policies.html) which define the basic procedures to be followed in the development of International Standards and other publications. These routes may take from 18 months to a maximum of 4 years to be accomplished, depending on the level of consensus, from the most basics to the most advanced. While the International Workshop Agreement route is based on inputs from invited stakeholders, the Committee route implies drafting standards through one of the 245 ISO’s technical committees (TC). TC’s are arranged by subject and may be divided into subcommittees (SC) and/or Working Groups (WGs). Technical Committees ensure wide representation from all relevant stakeholders at national and international levels. They secure the participation of national stakeholders through the work with National Mirror Committees, which represent the views on proposed standards from actors such as governments, academics, consumers, laboratories, or non-governmental organizations, among others.

The Committee route corresponds to a formal standards development process, which can be summarized as: 1. Based on stakeholders’ needs, a new work item proposal (NP) needs to be submitted to the committee; 2. If the set approval criteria is met, the NP is allocated to a working group to build a consensus among the experts nominated by participating ISO members and international organizations in liaison; 3. The project is circulated to committee members (i.e. national mirror committees with wider stakeholder representation), to build
consensus; 4. The inquiry on Draft International Standard (DIS) is opened to all ISO members (national public inquiries); 5. Members vote on the Final Draft International Standard (FDIS) (proof checked by Secretariat); 6. International Standards are published.

Participants discussed the Committee approach as a possible route for the development of principles on the dignified management of the dead in humanitarian emergencies. In such case, a committee that would be particularly interesting as a forum of discussion for the development of forensic general guidelines is the “ISO/TC 292 on Security and Resilience”, which has developed standards, for example, on emergency management (ISO 22320:2018 Emergency management – Guidelines for incident management; ISO/PWI 23804 Emergency management – Framework), the involvement of spontaneous volunteers (ISO 22319:2017 Community resilience – Guidelines for planning the involvement of spontaneous volunteers) and the support of vulnerable communities in these situations (ISO 22395:2018 Community resilience – Guidelines for supporting vulnerable persons in an emergency). For such a route the ICRC would need to become a liaison organisation in order to be allowed to submit a work proposal. Later, the organization may propose a convener to move the discussion into a working group, for which member-States interested in the topic might provide experts. Last, the text produced by the working group may be circulated and commented on by other ISO members.

Main Discussion Points

Experts discussed whether ISO was the appropriate avenue to standardize general rules or principles on the dignified management of the dead in humanitarian emergencies. Given the technical nature of ISO processes, some participants questioned the benefit of ISO standards in the development of guiding general principles beyond what may already be found in existing guidelines, such as the ICRC/WHO manual. Nevertheless, other participants considered that ISO’s procedures offered an opportunity to solve technical difficulties in a simple and organised manner. Moreover, ISO standards might also provide credibility and support to the intended set of general principles by disassociating their elaboration from the ICRC – which might not be endorsed by all organizations and countries.

Additionally, the group discussed whether ISO was a plausible and authoritative enough source to which forensics practitioners could turn for guidance on their practice and whether its expertise could help create a robust set of general principles. In that respect, ISO has already an established committee, ISO/TC 272 on Forensic sciences, which has published standards such as ISO 18385:2016 Minimizing the risk of human DNA contamination in products used to
collect, store and analyze biological material for forensic purposes – Requirements; ISO 21043-2:2018 Forensic sciences -- Part 2: Recognition, recording, collecting, transport and storage of items, etc. ISO standards also provide a basis for the accreditation of laboratories – a practice which has driven forensic professionalism at large. Moreover, accreditation is often required to help ensure public confidence in the procedures used – a key objective for the forensic humanitarian response system – and to ensure the mutual recognition of forensic professionals.

If ISO procedures should be considered as a way forward, participants agreed on the need to evaluate the steps that the process might involve and the difficulties that it might entail. Experts highlighted the possibility of losing the necessary specific influence in the drafting process of the text and the inability to find an agreement as the potential risks associated with a wide consensus-based process. These risks, however, might be mitigated by proposing an advanced version of the intended set of general principles, with an agreed terminology, which constitutes a solid basis to elaborate the document and set the margins for the discussion.

V. CONCLUSIONS: OPEN QUESTIONS AND WAY FORWARD

The discussions which took place over the course of this workshop led, firstly, to different open questions about the need to create general principles in order to fill the gaps identified in existing manuals and their implementation for the dignified management of the dead in large scale humanitarian emergency, including to prevent them from becoming missing persons. Considerations on the need for new guidelines emerged in relation to the improvement of technical work, forensic capacity and logistic resources in local contexts. Discussions led to the conclusion that the best way to address the deficiencies observed in the planning and implementation of forensic practices in these concrete scenarios could be through the development of a set of general principles. These should gather and recall, in a short and concise manner, the main norms and rules currently scattered and fragmented in the existing corpus of international humanitarian law, international human rights law and forensic guides and manuals. This document should aim to reflect the spirit in which existing instruments and tools ought to be translated, applied and implemented on the ground.

In relation to the content of a set of general principles, participants highlighted the need to define what is meant by situations of “humanitarian emergencies” before delving further into other substantial issues. Experts argued that future conversations on new directives for humanitarian forensic action ought to address the challenges – and therefore the demands – that specific contexts of conflict or mass violence, and natural disaster or mass migration present
also taking into account the temporality – past and present – in which such contexts are
enmeshed. Defining the type of crisis scenario in which forensic techniques are applied can
help identify appropriate forensic procedures as well as the needs of populations in diverse
emergency settings. Moreover, these reflections might also shed clarity on the use of terms such
as the “dead” and the “missing” as part of new guidelines, with an aim to avoid referring to
them interchangeably. Experts acknowledged that the lack of a nuanced definition of these
terms, which recognizes their diverse signification in relation to different contexts of violence
and mass death and avoids the potential hierarchization of the dead, demands further
examination from a forensic, legal and sociocultural perspective in future meetings.

Participants to the meeting also agreed on the need to address the appropriate and
dignified handling of the dead not only in relation to how it might be conceived through forensic
protocols, training and practice but also in connection to the social, cultural and religious
aspects that surround the recovery and identification of the dead in crisis scenarios. In this
regard, experts recognized the need to factor diversity into existing guidelines by
acknowledging the context-specific mortuary practices and beliefs already in place in the
settings where humanitarian forensic action operates. Discussions addressed the necessity to
take into account social, cultural and religious understandings that might challenge pre-
established notions around the “proper” identification and burial of the dead (in which
individualized vs collective forms of body disposal might be in tension); the need to improve
communication between forensic experts and bereaved communities; or the urgency to debunk
misguided conceptions of the forensic method.

Serious consideration of social, cultural and religious phenomena was also conceived as
necessary in order to enable the “dignified” treatment of the dead. Debates touched upon the
ambivalence that surrounds the meaning of dignity from legal, philosophical, ethical or
anthropological perspectives and, as a result, the difficulty of defining the concept. Thus,
experts agreed that the proposed principles should not attempt to reach a definition of the
concept of dignity. Similarly, they concluded that a potential set of guidelines should not aim
to embark in convoluted legal or philosophical debates around controversial issues connected
to the notion of death itself or the legal status of the dead and human remains. Instead, general
principles should aim to connect the “dignified” treatment of the dead to the particular social,
familial, cultural and religious demands that emerge in concrete situations of humanitarian
emergency as well as to the need to negotiate these with existing ethical assumptions entertained
in international forensic protocols and practice.
With regard to a way forward, participants stressed the need to consider specific collective work on the drafting of such complementary guidelines through the establishment of multi-stakeholder efforts formed by a multiplicity of forensic, civil society, governmental and community actors. Conversations also considered the possibility of collaboration with the International Organization for Standardization (ISO). They recognized, however, the challenges that standardization could pose, emphasising the need to avoid the homogenization of situations of humanitarian emergency through a one-size-fits-all standardized approach and the urge to take into account the diversity that characterises the humanitarian contexts in which forensic practitioners work.

Participants to the meeting acknowledged the need to develop a set of general principles on the dignified management of the dead in humanitarian emergencies, including to prevent them from becoming missing persons. These principles shall reflect the considerations shared during the event. Participants agreed that principles should be drafted in the months following the meeting and offered to contribute to the development and revision of the document. They also agreed on the pertinence of preparing a publication summarizing the discussions of the meeting and commended the organizers of the meeting to this effect.